

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 07-20032-BC
Honorable Thomas L. Ludington

ALONZO DEVON CAMPBELL,

Defendant.

**ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S APPLICATION TO
PROCEED IN FORMA PAUPERIS ON APPEAL AND DENYING WITHOUT
PREJUDICE DEFENDANT'S REQUEST FOR APPOINTMENT OF COUNSEL**

Defendant Alonzo Devon Campbell's application to proceed in forma pauperis [Dkt. # 39] and request for appointment of appellate counsel [Dkt. # 38] are presently before this Court. Defendant is currently confined at the Macomb Correctional Facility in New Haven, Michigan. This Court sentenced Defendant to 240 months imprisonment after pleading guilty to distributing cocaine base. *See* 21 U.S.C. § 841(a)(1). At the time of his sentence, Defendant was represented by retained counsel. Soon thereafter, Defendant's counsel filed a notice of appeal before this Court and then filed a motion to withdraw before the Sixth Circuit.

In order for a court to authorize a matter to proceed in forma pauperis, the application must satisfy the good faith requirements of 28 U.S.C. § 1915(a). Defendant's notice of appeal merely indicates his intent to appeal. Dkt. # 35. The notice, nor the application, indicate the legal basis of Defendant's appeal. Without providing this Court an issue to be presented on appeal, Defendant has yet to demonstrate that the appeal is "not frivolous." *See Harkins v. Roberts*, 935 F. Supp. 871, 873 (S.D. Miss. 1996) (quoting *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983)).

Defendant's affidavit, however, demonstrates that he is without the financial means to pay for his appeal. *See* Dkt. # 39. Defendant has not met his burden under 28 U.S.C. § 1915(a) and the Court will deny his application to proceed in forma pauperis without prejudice. Defendant may file an application to proceed in forma pauperis that meets the requirements of 28 U.S.C. § 1915(a).

Next, Defendant requests this Court to appoint counsel for his appeal. An indigent defendant has the right to representation on direct appeal of a criminal conviction. *See Pension v. Ohio*, 488 U.S. 75, 85 (1988). Defendant, however, has already appealed this matter to the Sixth Circuit. Moreover, the Court's search of Defendant's appeal before the Sixth Circuit (Court of Appeals Docket #: 08-1272) indicates that the Sixth Circuit granted Defendant's counsel's motion to withdraw. The Court concludes that it is more appropriate for the Sixth Circuit to appoint counsel on behalf of Defendant. Thus, the Court will deny Defendant's motion for counsel without prejudice and direct Defendant to file the motion for counsel with the Sixth Circuit.

Accordingly, it is **ORDERED** that Defendant's motion to proceed in forma pauperis on appeal [Dkt. #39] is **DENIED WITHOUT PREJUDICE**.

It is further **ORDERED** that Defendant's motion for appointment of appellate counsel [Dkt. #38] is **DENIED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 25, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 25, 2008

s/Tracy A. Jacobs
TRACY A. JACOBS